



Protecting the Independence of the Justice Department: Key Requirements for the Next Attorney General

Background

Now that President Trump has nominated an Attorney General who will be subject to the Senate confirmation process required by the Constitution, the Senate must use that process to assess the nominee's understanding of the importance of independent law enforcement. And the Senate must insist as a condition of confirmation that the nominee commit to protecting the Department from political interference by the White House. Ensuring the even-handed and impartial enforcement of the law is a core value of our democracy. It is reflected in the Constitution's requirement that the President "take care that the laws be faithfully executed" and "be bound by oath or affirmation" to support the Constitution. Fidelity to the faithful execution of the law means the White House should not intervene in most enforcement matters — especially if the White House is acting based on the President's political or personal interests.

Key Commitments the Attorney General Must Make

- **Enforce long-standing policies limiting White House interference with Department of Justice (DOJ).** Every Administration since Nixon has maintained policies that prevent improper White House interference in DOJ matters. The nominee must commit to:
 - ✓ Respecting and enforcing long-standing policies prohibiting White House interference.
 - ✓ Reporting to the DOJ Office of the Inspector General any potential violations of the policies for further investigation.
 - ✓ Sharing with the Senate Judiciary Committee all requested information about White House contacts with DOJ.
- **Protect the independence of the ongoing Special Counsel investigation.** The nominee must agree to:
 - ✓ Take active steps to watch for and block any White House interference with the investigation.
 - ✓ Refrain from interfering in the Special Counsel's decisions, investigative and prosecutorial actions, staffing, or funding.
 - ✓ Ensure that Deputy Attorney General Rosenstein remains the supervisor of the Special Counsel's investigation to preserve its appearance of independence.



- ✓ Guarantee that information about the Special Counsel's investigation is not improperly disclosed to the President, his attorneys, or anyone at the White House.
- ✓ Provide to Congress and the public any report issued by the Special Counsel on the findings and conclusions of his investigation.
- **Prevent politically-motivated investigative and prosecutorial decisions.** President Trump has been demanding the political prosecution of his political opponents. Especially as we move into the 2020 campaign, the Attorney General must make sure that the Department rejects any such calls. The Attorney General must guarantee that:
 - ✓ No investigation or prosecution of any person is initiated at the direction or at the behest of the President or anyone at the White House.
 - ✓ The Attorney General will strengthen and enforce long-standing Department policies concerning public announcements about political candidates during campaign season.
- **Protect against use of DOJ enforcement resources to target critics of the Administration.** There is ongoing civil litigation and Freedom of Information investigations concerning whether the President has directed the use of DOJ antitrust enforcement resources to target companies whose speech he perceives as critical of the Administration. And the President has made statements indicating his view that DOJ and other federal agencies should be used for this purpose. In light of this, the Attorney General must commit to:
 - ✓ Put in place protocols at the Department to ensure that no Department unit or official takes any investigative or enforcement action on the basis of the President's requests to use government powers to stifle the free press.
 - ✓ Report any and all such requests from the President to the Inspector General and the Senate Judiciary Committee.